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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/788,840

02/27/2004

John M. Kokosa

KJD-100-A

6903

22825 7590 08/16/2006

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EXAMINER

BELLAMY, TAMIKO D

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,840

Applicant(s)

KOKOSA, JOHN M.

Examiner

Tamiko D. Bellamy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, and 11-15 is/are rejected.
- 7) ☐ Claim(s) 2 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 8 and 10 are objected to because of the following informalities:
 - a. Claims 1 and 8, line 7, insert before the word “vial” –sample--.Appropriate correction is required.
- b. Claim 10, line 6, remove underlining of words “material in a space above the sample in the vial”.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-9, and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lightner et al. (3,508,442) in view of Rasmussen et al. (WO9725606A1).

Re claims 1, 8, and 9, Lightner et al. discloses controlling movement (e.g., combination of prime movers A, B, C) of a syringe (18). Lightner et al. specifically states (See Co., 7, lines 45-55; Col. 8, lines 52-63) that the barrel (20) of the syringe moves downwardly/upwardly **introducing the syringe needle into/out** the sample container, shifting the axis of the syringe barrel (20) in a variety of ways, and the axis of the syringe barrel (20) may be pivoted about an axis parallel to the axes of the syringe barrel (20). The movement of the syringe barrel (20) in a downward/upwardly direction is equivalent

to movement of the syringe along a first axis. The pivoting movement of the syringe barrel (20) is equivalent to movement of the syringe along a second axis. Therefore Lightner et al. discloses moving the syringe in multiple axes. Lightner et al. discloses cleaning the syringe (Col. 8, lines 40-45). Lightner et al discloses moving the syringe (18) to a sample vial (142), inserting a tip of the syringe (18) to into the sample vial (142), collecting a portion of the sample in the syringe (18), and withdrawing the syringe from the sample vial (Col. 7, lines 45-55). Lightner et al. discloses pivoting the barrel of the syringe (18) such that the syringe axis is in alignment with the injection port (10) (Col. 8, lines 10-14). The pivoting movement of the syringe axis to align with the injection port is equivalent to moving the syringe to an instrument injector. Lightner et al. discloses injecting the sample into the instrument injector for analysis of the sample, and repeating the prior steps on each of the plurality of samples (Col. 7, lines 15-27). Lightner et al. **do not specifically disclose drawing a carrier solvent into the syringe.** Rasmussen et al. specifically states (See Pg. 7, lines 24-30) that the solvent is immobilized onto the fiber and the plunger is withdrawn so that the fibre/fiber is withdrawn into the needle before is removed from the solvent vial. Rasmussen's et al. method of withdrawing the solvent immobilized onto the fibre/fiber and into the needle, which is equivalent to drawing the carrier solvent into the syringe. Therefore, to modify Lightner et al by employing drawing a carrier solvent into the syringe would have been obvious to one of ordinary skill in the art at the time of the invention since Rasmussen et al. teaches a sampling device having theses design characteristics. The skilled artisan would be motivated to combine the teachings of Lightner et al. and Rasmussen et al.

since Lightner et al. states that his invention is applicable to automated liquid sampler for injecting a sample into a gas chromatograph and Rasmussen et al. is used only to add the limitation of drawing a carrier solvent into the syringe.

Re claims 3 and 11, as depicted in fig. 6, Lightner et al. discloses a placing a plurality of sample vials (142) in a holder in established coordinate positions

Re claims 4 and 12, Lightner et al. discloses providing a cleaning solution in a known coordinate position (Col. 8, lines 40-45).

Re claims 5 and 13, Lightner et al. discloses moving the syringe to the cleaning vial, and withdrawing contents of the cleaning solution into the syringe (Col. 7, lines 60-64, Col. 8, lines 40-45).

Re claims 6 and 14, as depicted in fig. 6, Lightner et al. discloses inserting the syringe (18) into the sample vial (142) to position the tip of the syringe (18) in a head space above a liquid sample in the vial (142).

Re claims 7 and 14, as depicted in fig. 6, Lightner et al. discloses inserting the syringe tip of the syringe (18) into the sample vial (142).

Allowable Subject Matter

4. Claims 2 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Remarks

5. Applicant's arguments filed 6/6/06 have been fully considered but they are not persuasive.

Re claims 1 and 8, the applicant argues Lightner does not teach that the syringe is moved to a sample vial, nor is the syringe moved to an injector instrument; and therefore the syringe is not moved in multiple axes from the sample vial to the instrument injector. Lightner et al. specifically states (See Co., 7, lines 45-55; Col. 8, lines 52-63) that the barrel (20) of the syringe moves downwardly/upwardly **introducing the syringe needle into/out** the sample container, shifting the axis of the syringe barrel (20) in a variety of ways, and the axis of the syringe barrel (20) may be pivoted about an axis parallel to the axes of the syringe barrel (20). The movement of the syringe barrel (20) in a downward/upwardly direction is equivalent to movement of the syringe along a first axis. The pivoting movement of the syringe barrel (20) is equivalent to movement of the syringe along a second axis. Therefore Lightner et al. discloses moving the syringe in multiple axes. Lightner et al. discloses pivoting the barrel of the syringe (18) such that the syringe axis is in alignment with the injection port (10) (Col. 8, lines 10-14). The pivoting movement of the syringe axis to align with the injection port is equivalent to moving the syringe to an instrument injector.

Re claims 1 and 8, the applicant argues that Rasmussen et al. teaches a fiber carrier and a solvent combination are lowered into the sample and the fiber and solvent combination is withdrawn into the needle before the needle is removed from the sample vial. The applicant further argues that Rasmussen is devoid of using **only a solvent to**

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collect a sample as discloses in claims 1-8. However claims 1 and 8, in the amended claims received 2/6/06 and the currently amended claims received 6/6/06 disclose **drawing a carrier solvent into the syringe (See claims 1 and 8, line 5).** Rasmussen et al. specifically states (See Pg. 7, lines 24-30) that the solvent is immobilized onto the fiber and the plunger is withdrawn so that the fibre/fiber is withdrawn into the needle before is removed from the solvent vial. Rasmussen's et al. method of withdrawing the solvent immobilized onto the fibre/fiber and into the needle is equivalent to drawing the carrier solvent into the syringe. Therefore the Rasmussen et al. reads on claims 1 and 8.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tamiko Bellamy

T.B.
August 8, 2006


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
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